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BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

AUG 30 2001

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF
ONEPOINT SERVICES, L.L.C. FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
RESOLD LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICES.

DOCKET NO. T-03855A-00-0169

DECISION NO. 63992ORDER

Open Meeting
August 28 and 29, 2001
Phoenix, Arizona

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On March 14, 2000, OnePoint Services, L.L.C. ("Applicant" or "OnePoint") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive resold local exchange telecommunications services within the State of Arizona.
2. Applicant is a corporation, authorized to do business in Arizona since 1999.
3. Applicant is a switchless reseller, which purchases telecommunications services from a variety of carriers.
4. In Decision No. 58926 (December 22, 1994), the Commission found that resold telecommunications providers ("resellers") were public service corporations subject to the jurisdiction of the Commission.
5. On August 8, 2000, OnePoint filed Affidavits of Publication indicating compliance with the Commission's notice requirements.
6. On September 27, 2000, the Commission's Utilities Division Staff ("Staff") filed its Staff Report in this matter. Staff stated that OnePoint has provided the financial statements for the

1 year ending December 31, 1999 from its parent company, OnePoint Communications, Corp. These
2 financial statements list total assets of \$81.4 million, negative equity of \$90 million, and a net loss of
3 \$51 million based on revenues of \$22.1 million. Based on the foregoing, Staff believes that the
4 Applicant lacks sufficient financial resources to provide local exchange telecommunications services
5 in Arizona absent the procurement of a performance bond. Staff believes that any deposits or
6 prepayments received from the Applicant's customers should be protected by the procurement of a
7 performance bond.

8 7. Staff recommended approval of the application subject to the following conditions:

9 (a) The Applicant should be ordered to comply with all Commission rules, orders,
10 and other requirements relevant to the provision of intrastate telecommunications
11 service;

12 (b) The Applicant should be ordered to maintain its accounts and records as
13 required by the Commission;

14 (c) The Applicant should be ordered to file with the Commission all financial and
15 other reports that the Commission may require, and in a form and at such times as the
16 Commission may designate;

17 (d) The Applicant should be ordered to maintain on file with the Commission all
18 current tariffs and rates, and any service standards that the Commission may require;

19 (e) The Applicant should be ordered to comply with the Commission's rules and
20 modify its tariffs to conform to these rules if it is determined that there is a conflict
21 between the Applicant's tariffs and the Commission's rules;

22 (f) The Applicant should be ordered to cooperate with Commission investigations
23 of customers complaints;

24 (g) The Applicant should be ordered to participate in and contribute to a universal
25 service fund, as required by the Commission;

26 (h) The Applicant should be ordered to file its tariffs within 30 days of an Order in
27 this matter, and in accordance with the Decision;

28 (i) The Applicant should be ordered to notify the Commission immediately upon
 changes to the Applicant's address or telephone number;

 (j) The Applicant's local exchange service offerings should be classified as
 competitive pursuant to Commission rules;

1 (k) The Applicant's competitive services should be priced at the rates proposed by
2 the Applicant in its most recently filed tariffs. The maximum rates for these services
3 should be the maximum rates proposed by the Applicant in its tariffs. The minimum
4 rates for the Applicant's competitive services should be the Applicant's total service
5 long run incremental costs of providing those services; and,

6 (l) In the event that the Applicant states only one rate in its proposed tariff for a
7 competitive service, the rate stated should be the effective (actual) price to be charged
8 for the service as well as the service's maximum rate.

9 8. On June 22, 2001, OnePoint filed Comments to the Staff Report. OnePoint is
10 requesting a waiver of the bond requirement based on the fact that it posted a \$50,000 bond in
11 Decision No. 63532 (March 30, 2001) which approved OnePoint's application to provide resold
12 interexchange services.

13 9. OnePoint is also requesting that if it is required to post a bond that it be required to
14 post the bond within 180 days from the date of a Decision in this matter or 30 days prior to providing
15 service.

16 10. OnePoint further requests that it be allowed to file a request to cancel the bond upon a
17 determination of financial viability.

18 11. The Staff Report stated that Applicant has no market power and the reasonableness of
19 its rates would be evaluated in a market with numerous competitors.

20 12. On August 29, 2000, the Arizona Court issued its Opinion in US WEST
21 Communications, Inc. v. Arizona Corporation Commission, 1 CA-CV 98-0672, holding that "the
22 Arizona Constitution requires the Commission to determine fair value rate bases for all public service
23 corporations in Arizona prior to setting their rates and charges."

24 13. On October 26, 2000, the Commission filed a Petition for Review to the Supreme
25 Court.

26 14. On February 13, 2001, the Commission's Petition was granted.

27 CONCLUSIONS OF LAW

28 1. Applicant is a public service corporation within the meaning of Article XV of the
Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over Applicant and the subject matter of the

1 application.

2 3. Notice of the application was given in accordance with the law.

3 4. Applicant's provision of resold local exchange telecommunications services is in the
4 public interest.

5 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive
6 resold local exchange telecommunications services in Arizona.

7 6. Staff's recommendations in Findings of Fact No. 7 are reasonable and should be
8 adopted.

9 **ORDER**

10 IT IS THEREFORE ORDERED that the application of OnePoint Services, L.L.C. for a
11 Certificate of Convenience and Necessity for authority to provide competitive resold local exchange
12 telecommunications services shall be and the same is hereby granted, as conditioned herein.

13 IT IS FURTHER ORDERED that OnePoint Services, L.L.C. shall comply with the Staff
14 recommendations set forth in Findings of Fact Nos. 7.

15 IT IS FURTHER ORDERED that in order to protect OnePoint Services, L.L.C.'s customers,
16 OnePoint Services, L.L.C. shall procure a performance bond of at least \$25,000. The minimum bond
17 amount of \$25,000 should be increased if at any time it would be insufficient to cover prepayments or
18 deposits collected from the Applicant's customers. If OnePoint Services, L.L.C. desires to
19 discontinue service, it should file an application with the Commission pursuant to Commission rules.
20 OnePoint Services, L.L.C. shall notify each of its customers and the Commission at least 60 days
21 prior to filing an application to discontinue service pursuant to Commission rules and any failure to
22 do so may result in the forfeiture of OnePoint Services, L.L.C.'s performance bond. Proof of the
23 performance bond should be docketed within 180 days of the effective date of an order in this matter
24 or 30 days prior to the provision of service, whichever comes first. OnePoint Services, L.L.C. may
25 file a request for cancellation of the performance bond. Such request shall be accompanied by
26 information demonstrating OnePoint Services, L.L.C.'s financial viability. Upon receipt of such
27 filing and after Staff review, Staff will forward its recommendation to the Commission for a Decision
28 that the requested cancellation is in the public interest.

1 IT IS FURTHER ORDERED that OnePoint Services, L.L.C. shall file in this Docket, within
2 18 months of the date it first provides service following certification, sufficient information for Staff
3 analysis and recommendation for a fair value finding, as well as for an analysis and recommendation
4 for permanent tariff approval. This information must include, at a minimum: (1) a dollar amount
5 representing the total revenue for the first twelve months of telecommunications service provided to
6 Arizona customers by OnePoint Services, L.L.C. following certification, adjusted to reflect the
7 maximum rates that OnePoint Services, L.L.C. has requested in its tariff. This adjusted total revenue
8 figure could be calculated as the number of units sold for all services offered times the maximum
9 charge per unit. (2) The total actual operating expenses for the first twelve months of
10 telecommunications service provided to Arizona customers by OnePoint Services, L.L.C. following
11 certification. (3) The value of all assets, listed by major category, including a description of the
12 assets, used for the first twelve months of telecommunications services provided to Arizona
13 customers by OnePoint Services, L.L.C. following certification. Assets are not limited to plant and
14 equipment. Items such as office equipment and office supplies should be included in this list.
15 OnePoint Services, L.L.C.'s failure to meet the condition to timely file sufficient information for a
16 fair value finding and analysis and recommendation of permanent tariffs shall result in the expiration
17 of the Certificate of Convenience and Necessity and of the tariffs.

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1 IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision,
2 OnePoint Services, L.L.C. shall notify the Compliance Section of the Arizona Corporation
3 Commission of the date that it will begin or has begun providing service to Arizona customers.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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8 CHAIRMAN

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10 COMMISSIONER

COMMISSIONER

11 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
12 Secretary of the Arizona Corporation Commission, have
13 hereunto set my hand and caused the official seal of the
14 Commission to be affixed at the Capitol, in the City of Phoenix,
15 this 30th day of August, 2001.

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17 BRIAN C. McNEIL
18 EXECUTIVE SECRETARY

19 DISSENT _____
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1 SERVICE LIST FOR: ONEPOINT SERVICES, L.L.C.
2 DOCKET NO.: T-03815A-99-0711
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